PRE-APPEAL BRIEF REQUEST FOR REVIEW	Docket Number: 13906-0109001

CERTIFICATE OF MAILING BY EFS-WEB FILING	Application Number 10/664,771	Filed September 17, 2003
I hereby certify that this paper was filed with the United States Patent and Trademark Office using the EFS –WEB system on this date: September 11, 2008	First Named Inventor Achim Kraiss et al.	
	Art Unit 2626	Examiner Leonard Saint Cyr

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
        Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
    See 37 CFR 3.71. Statement under 37 CFR 3.73(b)
    is enclosed. (Form PTO/SB/96)

☒ attorney or agent of record 57,867
                (Reg. No.)

☐ attorney or agent acting under 37 CFR 1.34.
    Registration number if acting under 37 CFR 1.34

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September 11, 2008
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Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below'.

☒ Total of 4 forms are submitted.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Achim Kraiss et al.   Art Unit   : 2626
Serial No. : 10/664,771   Examiner : Leonard Saint Cyr
Filed   : September 17, 2003   Conf. No. : 4871
Title   : MULTI-LANGUAGE SUPPORT FOR DATA MINING MODELS

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Pursuant to the Pre-Appeal Brief Conference Program, a request for a review is hereby submitted with the Notice of Appeal because the rejections of record are clearly not proper and are without basis, in view of a clear legal or factual deficiency in the rejections. All rights to address additional matters on appeal in any subsequent appeal brief are hereby reserved.

Applicants specifically request the panel to review the issues numbered 1-2 below. Applicants expressly reserve the right to expand these issues and/or present new issues when filing the appeal brief.
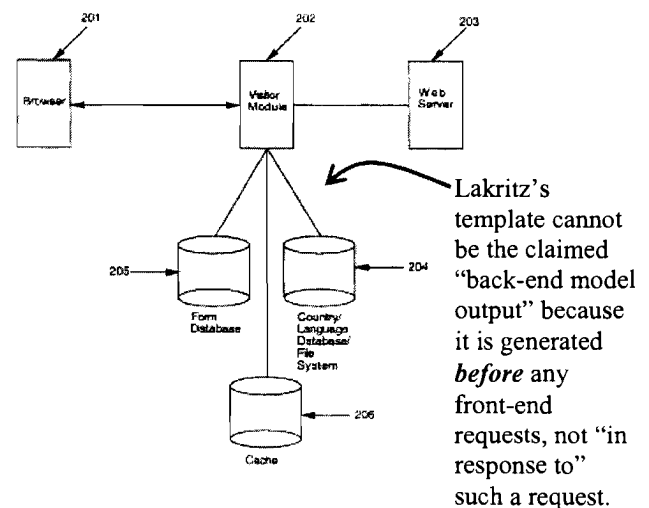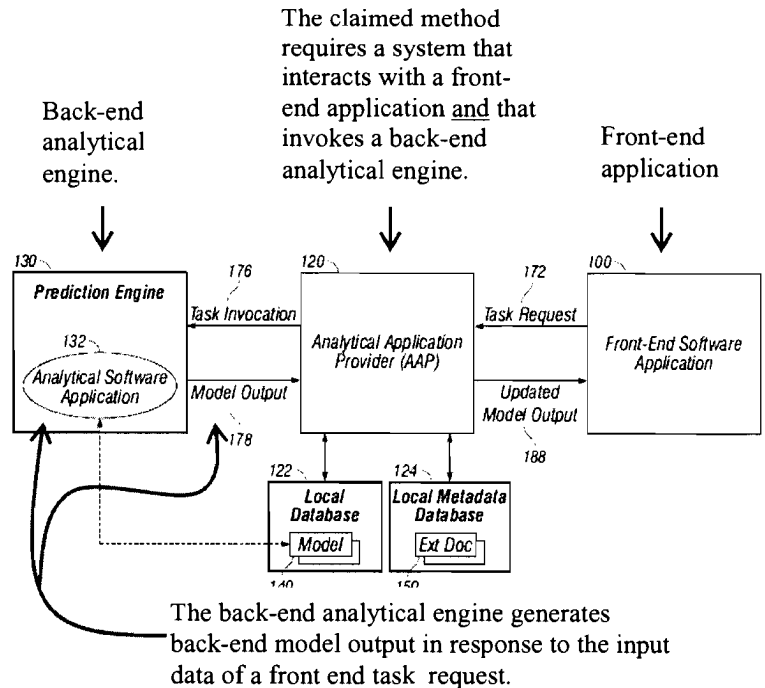
1. Lakritz fails to disclose all elements of claim 10, and the Office Action's rationale of a "template-based approach to dynamically create documents" is an incomplete attempt to fill in the claim elements missing from the prior art of record.

Independent claim 10 was rejected under 35 U.S.C. § 102(b) as being anticipated by Lakritz (WO01/69420). The Lakritz reference, however, fails to disclose each and every element of claim 10. For any one of the reasons set forth below, the § 102(b) rejection based upon the Lakritz reference must be withdrawn.

Claim 10 describes a computer-implemented method that includes both receiving a task request from *a front-end application* and invoking *a back-end analytical engine* to execute the data mining model based upon the input data of the task request. Thus, claim 10 describes a "middleman" type of system that interacts with a front-end application and that invokes a back-end analytical engine. For example, Applicants' FIG. 1 (shown below) shows an embodiment of such a system that includes a back-end analytical engine in the form of a "Prediction Engine." As described in claim 10, this exemplary Prediction Engine (including an "Analytical Software Application") can operate as back-end analytical engine that outputs information generated "in

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response to the execution of the data mining module based upon the input data of the task request." Here, the Lakritz reference fail to disclose such a system that both invokes a back-end analytical engine to execute the data mining model *based upon the input data of the task request* and then receives a back-end model output from the back-end analytical engine (which includes information generated *in response to the execution of the data mining model based upon the input data of the task request*).

The claimed method requires a system that interacts with a front-end application <u>and</u> that invokes a back-end analytical engine.

Back-end analytical engine.

Front-end application

The back-end analytical engine generates back-end model output in response to the input data of a front end task request.

Instead, the Lakritz reference merely describes a traditional web server system that can interact with a front-end user (e.g., web site visitor) to provide a previously generated web page in a selected language. Unlike method claim 10, Lakritz's web site template (the purported "back-end model output") is created <u>before</u> any front-end requests are made. (Lakritz at p. 7, lines 5-7.) In particular, Lakritz teaches that the web site system uses "a single 'master' site which is subsequently displayed in any number of languages." (Lakritz at p. 7, lines 5-7.) Lakritz explains that the "master site" is built to be "language and country-independent" due to the use of a master document "template." (Lakritz at p. 7, lines 13-19.) Only after the master document template is created can a visitor's request for viewing the site be fulfilled "by filling in [the] document template from the master site with the correct language and country content." (*Id.*) Thus, Lakritz's master template is <u>not</u> "generated in response to execution of a data mining model *based upon the input data of a front-end task request*" (as set forth in claim 10).

Lakritz's template cannot be the claimed "back-end model output" because it is generated *before* any front-end requests, not "in response to" such a request.

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The Final Office Action contends that the Lakritz reference "implies" this claimed feature merely because Lakritz employs a "template-based approach to dynamically creating documents tailored for a specific language country." This was erroroneous for at least two reasons.

First, the Examiner argues that Lakritz's template-based approach merely "**implies**" the claimed feature set forth in claim 10. (*See* Office Action, mailed June 11, 2008, at page 2) This argument fails because according to the MPEP, Lakritz must either expressly or inherently teach all elements. (*See* MPEP § 2112.) The Final Office Action concedes that Lakritz does not *expressly* teach this step (the underlying reason for using the term "implies"). Importantly, this claim feature is not "necessarily present" in Lakritz's disclosure, so Laktriz does not *inherently* anticipate claim 10. It is the Examiner's burden to provide a rationale or evidence to show inherency. (*See* MPEP § 2112(IV).) The Examiner has not met this burden. The law is clear: merely asserting that a reference "implies" a claim limitation is not enough to support a rejection under § 102. For this reason alone, the §102(b) rejection based upon Lakritz must be withdrawn.

Second, the conclusory statement in the Final Office Action overlooks the actual language of claim 10. The claimed method clearly describes that the back-end analytical engine is invoked *using input data from the front-end task request* and that the back-end model output is generated in response to the execution of the data mining model *based upon that particular input data from the task request*. Lakritz does not perform such operations. Lakritz's template-based approach uses previously created templates and previously created web page text (e.g., templates and text that are generate before any user requests to view the web site are received by Lakritz's web server). Moreover, Lakritz provides no reasoning that would have prompted a skilled artisan to modify the Developer Module 102 so as to achieve the claimed computer-implemented method set forth in claim 10. To the contrary, Lakritz discloses that it is advantageous to maintain only a single master template that is unaffected by requests from front-end visitors. (*See* Lakritz at p. 10, lines 4-8.) For this reason alone, the §102(b) rejection based upon Lakritz must be withdrawn.

Applicants respectfully submit that independent claim 10 is patentable over Lakritz and all other references cited in the record. The §102(b) rejection based upon the Lakritz reference was incomplete and must be withdrawn.

2. The Lakritz reference fails to disclose all elements of claim 17, and the Office Action's rationale of a "template-based approach to dynamically create documents" is an incomplete attempt to fill in the claim elements missing from the prior art of record.

      Independent claim 17 was rejected under 35 U.S.C. § 102(b) as being anticipated by Lakritz. Again, the Final Office Action failed to disclose each and every element of claim 10. For reasons similar to those described in connection with claim 10, Lakritz fails to disclose or suggest all of the features set forth in claim 17.

      Unlike claim 17, Lakritz does not teach a method that includes "the request from the front-end application including ***input data that is employed by a back-end analytical engine to execute the data mining model to generate a back-end model output.***" As previously described, the Office Action contends that Lakritz's master document template from the master site represents the claimed "back-end model output" and that the localized document (having language-specific information inserted into the template) represents the "updated model output." Again, this is an erroneous conclusion. The "back-end model output" as described in claim 17 is readily distinguishable from Lakritz's master template for reasons similar to those described above. Applicants respectfully submit that independent claim 17 is patentable over Lakritz and all other references cited in the record. The § 102(b) rejection based upon the Lakritz reference was incomplete and must be withdrawn.

Conclusion

      Applicants respectfully request reconsideration and allowance of claims 10-16 and 17-27. It is believed that all of the pending claims have been addressed. Because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Applicants expressly reserve the right to expand these issues and/or present new issues when filing the appeal brief.

Respectfully submitted,

Date: _September 11, 2008_

Michael T. Hawkins

Michael T. Hawkins

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